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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 131213999-4083-01]

RIN 0648-BD82

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). In addition, NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC. These measures include the sport fishery allocations and management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, provide greater angler opportunity where available, and avoid bycatch of overfished groundfish species.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received by [insert date 15 days after publication in the Federal Register].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2014-0009, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov#!docketDetail;D=NOAA-NMFS-2014-0009, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments
- **Mail:** Submit written comments to William Stelle, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, phone: 206-526-4646, fax: 206-526-6736, or e-mail: sarah.williams@noaa.gov

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at [http:// www.access.gpo.gov/su_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). Background information and documents are available at the NMFS West Coast Region Web site at http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html and at the Council’s Web site at <http://www.pcouncil.org>.

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982, 16 U.S.C. 773-773K, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention) (16 U.S.C. 773c). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Convention waters.

Each year between 1988 and 1995, the Pacific Fishery Management Council (Council) developed and NMFS implemented a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A. In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries.

The Plan allocates 35 percent of the Area 2A Pacific halibut TAC to Washington treaty Indian tribes in Subarea 2A-1, and 65 percent of the Area 2A TAC to non-tribal fisheries. The TAC allocation to non-tribal fisheries is divided into four shares. Three shares, totalling 99%, are as follows: the Washington sport fishery (north of the Columbia River) receives 36.6 percent, the Oregon sport fishery receives 30.7 percent, and the commercial fishery receives 31.7 percent. For 2014, the Council recommended and NMFS proposes as the fourth share, a new allocation for the California sport fishery of 1% of the non-tribal allocation. The commercial fishery is

further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation of Pacific halibut TAC, and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the sablefish primary fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

The IPHC's annual meeting occurred January 13-17, 2014, in Seattle, WA. At that meeting, the IPHC set the 2014 Area 2A TAC at 960,000 lb (435.45 mt).

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, Washington

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). In 2014, the TAC is 960,000 lb (435.45 mt) and the Washington recreational TAC exceeds 224,100 lb; therefore incidental halibut retention will be allowed in this fishery. The Council will recommend landing restrictions for public review at its spring meetings after which NMFS will publish the restrictions in the Federal Register.

Opportunity for Public Comment

Through this proposed rule, NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the resulting proposed domestic fishing regulations by [insert date 15 days after date of publication in the Federal Register]. The States of Washington and Oregon will conduct public workshops shortly to obtain input on the sport

season dates. Following the proposed rule comment period, NMFS will review public comments and comments from the states, and issue a final rule for Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E. The final rule will also contain the IPHC regulations for the 2014 Pacific halibut fisheries. This proposed rule provides for a 15-day public comment period, which will allow NMFS time to incorporate the final U.S. domestic regulations into the IPHC regulations in order to have the combined regulations in place as close to March 1 as possible. The regulations need to be in effect in early March because the fishing season begins in mid-March. The 2014 commercial season starting date(s) need to be published soon after the IPHC meeting in January 2014 to notify the public of that date so the industry can plan for the season.

Endangered Species Act (ESA) Section 7 Biological Opinion (BiOp) and National Environmental Policy Act (NEPA) Environmental Assessment (EA)

In response to the listing of yelloweye, canary, and bocaccio rockfish in Puget Sound under the ESA (75 FR 22276, April 28, 2010), NMFS commenced a consultation under Section 7 of the Endangered Species Act on the implementation of the 2014 and 2015 Pacific Halibut Catch Sharing Plan for Area 2A. Because the Plan covers fisheries in all of Area 2A (Washington, Oregon, and California), the consultation covers all fisheries (commercial, recreational, treaty Indian) that are allocated halibut through the Plan with respect to their impacts on all ESA-listed species that occur in Area 2A. Specifically, these include listed marine mammals, salmon, eulachon, and the Southern DPS of green sturgeon. NMFS is also drafting an EA to examine the effects of the ongoing implementation of the Catch Sharing Plan for Area 2A, and to update the biological environment, particularly with respect to the ESA listing of species occurring in Area 2A. Both documents are anticipated to be completed prior to issuance of the final rule. The draft EA will be posted at

http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.htm

1 during the comment period on this proposed rule to allow the public the opportunity to review the draft document when submitting comments on the proposed rule. NMFS welcomes public comment on the environmental effects of this fishery generally, and specifically the effects of the fishery on ESA listed species.

Proposed Changes to the Plan

Each year, the Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Game (CDFG), and the tribes with treaty fishing rights for halibut consider whether to pursue changes to the Plan to meet the needs of the fishery. In determining whether changes are needed, the state agencies hold public meetings prior to the Council's September meeting. Subsequently, they recommend changes to the Council at its September meeting. In 2013, fishery managers from all three state agencies held public meetings on the Plan prior to the Council's September meeting. At the September 2013 Pacific Council meeting, WDFW, ODFW, and CDFW recommended changes to the Plan, while NMFS and the tribes did not recommend any changes to the Plan. The Council voted to solicit public input on all of the changes recommended by the state agencies, several of which were presented in the form of alternatives. WDFW and ODFW subsequently held public workshops on the proposed changes.

At its October 30-November 6, 2013, meeting the Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public input provided at the September and November Council meetings, and made its final recommendations for modifications to the Plan. NMFS proposes to adopt all of the Council's proposed changes to the Plan, as follows:

1. In section (b), Allocations, this rule proposes several changes to allocations. The non-Indian allocation is divided into four shares, rather than the previous three, to provide a dedicated allocation for the new California sport fishery subarea that would be created through proposed changes described in items 6 and 7, below. The proposed California allocation is one percent of the non-tribal allocation. Because the Oregon/California sport fishery allocation was previously shared, the proposed Oregon sport fishery allocation is lower than the previous combined allocation.
2. In section (e)(4), Commercial license restrictions/declarations, this rule proposes several changes related to the starting date. In 2012 the Council recommended changing the starting date for allowing halibut retention in the salmon troll fishery from May to April and discussed the same date change for halibut retention in the sablefish primary fishery. At the time NMFS informed the Council that the date change for the sablefish primary fishery did not require changes to the Plan section addressing this fishery. However, it does require the proposed changes to the license section of the Plan. The current Plan states that IPHC licenses are due by March 31; this does not allow the IPHC enough time to process applications prior to the start of the fisheries on April 1. Therefore, a change is proposed in the license application due date for halibut retention in both fisheries from March 31 to March 15.
3. In section (f)(1)(ii), Washington north coast subarea, this rule proposes several changes to the text for clarity. The goal of these changes is to more clearly describe the quota management closure and to discontinue the nearshore fishery. The nearshore fishery is open only when there is not enough quota for another all depth fishing day in this subarea.

Due to high fishing effort in this area the nearshore provision has not been used for several years, therefore this rule proposes its discontinuation.

4. In section (f)(1)(iv), Columbia River subarea, this rule proposes several changes to the text to implement several measures. First, there is a change to clarify that the allocation to this area is derived from the Washington and Oregon sport fishery allocations only, not the new California allocation. As explained above, the existing Plan includes a combined Oregon/California allocation. Second, a new nearshore fishery is created. Third, season dates are modified. Finally, the changes clarify how the quota will be managed between the early and late season. The quota in this area has been underutilized for the past several years, therefore the goal of the creation of a nearshore fishery and modification of season dates is intended to increase angler opportunity. Further, in the new nearshore area retention of halibut on groundfish trips will be allowed, which may help turn incidental halibut discards into retained fish improving the recreational experience in this area.
5. In section (f)(1)(v), Oregon central coast subarea, this rule proposes several changes as follows: modify the language stating that ODFW will sponsor public “workshops” to public “input processes,” modify the nearshore fishery season open date and number of days per week, and modify the spring all depth season allocation so that two percent is now allocated to the new Southern Oregon subarea. ODFW has experienced decreasing attendance at their state sponsored meetings and therefore has begun to use online surveys to successfully solicit public input on changes to the Plan each year. The change to the public input language in the Plan reflects that change. The modification to the nearshore fishery open date and number of days per week is in response to public comments stating a preference for a shorter fishery open more days per week versus a longer fishery with

closed days per week. The changes to the spring fishery allocation are to provide an allocation to the new Southern Oregon subarea described below.

6. In section (f)(1)(vi), South of Humbug Mountain subarea, this rule proposes several changes. These changes include splitting the existing South of Humbug Mountain subarea, which includes southern Oregon and the entire California coast, into a Southern Oregon subarea and a California subarea. This change will allow for more effective management by each state with the goal of limiting catch to the respective allocations. Inseason halibut management is different in California than in Oregon. Oregon monitors the halibut catch in this area during the season while California does not. In addition to inseason monitoring, Oregon has established a management system that allows for inseason management of this area, such as closure upon quota attainment. Due to these differences, separation of the previous South of Humbug area into separate Oregon and California areas is the best way to avoid inconsistent management within one subarea, and to allow each state to use its most effective available management techniques to keep the fishery within its quota. This rule proposes modifications to section (f)(1)(vi) to describe the newly created Southern Oregon subarea. The subarea is allocated 2.0 percent of the Oregon Central Coast subarea spring all-depth allocation and is open seven days per week, May 1 through October 31.
7. This rule proposes to add section (f)(1)(vii) describing the newly created California subarea. As described under item 1 above, this new subarea would receive a 1.0 percent allocation from the overall non-Tribal allocation. The subarea will be open May 1-July 31 and September 1-October 31, 7 days per week. Closing the month of August is necessary because analysis completed by a Council-appointed workgroup showed it would result in

a projected catch reduction of 39 percent. This reduction combined with closed areas in California state waters is projected to result in a 42 percent reduction in projected catch. The Council-appointed policy group recommended adopting measures with the goal of reducing recreational catch for 2014 in California to 40-60 percent of the 5 year average to bring catch closer to its annual allocation. It is not anticipated that these management strategies will keep the catch in this area under the annual allocation, however, they are a first step towards achieving that purpose.

NMFS proposes to approve the Council's recommendations and to implement the changes described above. A version of the Plan including these changes can be found at http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html

Proposed 2014 Sport Fishery Management Measures

NMFS also proposes sport fishery management measures that are necessary to implement the Plan in 2014. The annual domestic management measures are published each year through a final rule. For the 2013 fishing season, the final rule was published on March 15, 2013 (78 FR 16423), and the following section numbers refer to sections within that final rule. The final 2014 TAC for Area 2A is 960,000 lb (435.45 mt). Where season dates are not indicated, those dates will be provided in the final rule, following consideration of the 2014 TAC and consultation with the states and the public.

In Section 8 of the annual domestic management measures, "Fishing Periods," paragraph (2)-(3) is proposed to read as follows and paragraph (6) is modified to read as follows:

(1) * * *

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on June 25, July 9, July 23, August 6, August 20, September 3, September 17, 2014, unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS. This fishery will occur between 1200 hours local time on (season dates will be inserted when final rule is published) March 8 and 1200 hours local time on (season dates will be inserted when final rule is published).

(4) * * *

(5) * * *

(6) In Area 2A incidental catch of halibut in the primary sablefish fishery has not been determined at this time for the 2014 fishery.

In section 26 of the annual domestic management measures, “Sport Fishing for Halibut,” paragraph 1(a)-(b) will be updated with 2014 total allowable catch limits in the final rule. In section 26 of the annual domestic management measures, “Sport Fishing for Halibut” paragraph (8) is proposed to read as follows:

(8) * * *

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lbs (26 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is open (season dates will be inserted when final rule is published). The fishing season in western

Puget Sound (west of 123°49.50' W. long., Low Point) is open (season dates will be inserted when final rule is published).

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.), is 108,030 (49 mt).

(i) The fishing seasons are:

(A) Commencing on May 15 and continuing 2 days a week (Thursday and Saturday) until 108,030 (49 mt) are estimated to have been taken and the season is closed by the Commission, or until May 24.

(B) If sufficient quota remains the fishery will reopen on May 29 and/or May 31, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 24, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 24 unless the date is announced on the NMFS hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a

C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at § 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.), is 42,739 lb (19.39 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

(1) 47°31.70' N. lat, 124°37.03' W. long;

(2) 47°25.67' N. lat, 124°34.79' W. long;

(3) 47°12.82' N. lat, 124°29.12' W. long;

(4) 46°58.00' N. lat, 124°24.24' W. long.

The south coast subarea quota will be allocated as follows: 40,739 lb (18.48 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 4, and continues 2 days a week (Sunday and Tuesday) until May 20. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. Beginning on June 1 the primary fishery will be open at most 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 4, and continues 7 days per week. Subsequent to closure of the primary fishery the nearshore fishery is open 7 days per week, until 42,739 lb (19.39 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the

Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.), is 11,895 lb (5.4 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 10 percent or 1,500 pounds of the subarea allocation, whichever is less. The nearshore fishery is restricted to the area shoreward of the boundary line

approximating the 30 fm (55 m) depth contour from Leadbetter Point to the Washington/Oregon border and the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 5, and continues 3 days per week (Monday – Wednesday) until the nearshore allocation is taken, or September 30, whichever is earlier. The all depth fishing season commences on May 1, and continues 4 days a week (Thursday – Sunday) until 8,564 lb (3.8 mt) are estimated to have been taken and the season is closed by the Commission, whichever is earlier. The fishery will reopen on August 7 and continue 4 days a week (Thursday – Sunday) until 2,141 lb (0.97 mt) has been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel, during days open to the all depth fishery only.

(iv) Taking, retaining, possessing or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 185,621 lb (84.2 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences July 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 22,274 lb (10.1 mt), or any in-season revised subquota, is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open from (season dates will be inserted when final rule is published). The projected catch for this season is 114,602 lb (51.9 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Depending on the amount of unharvested catch available, the potential season re-opening dates will be: (season dates will be inserted when final rule is published). If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested catch remains, the third season (summer season), which is for the “all-depth” fishery, will be open from 46,405 lb (21 mt), or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period on

(season dates will be inserted when final rule is published). If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning (season dates will be inserted when final rule is published) and ending October 31. If after September 1, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 5 and 6, and ending October 31. After September 1, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through

the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.) is 2,339 lb (1 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(g) The quota for landings into ports south of the Oregon/California Border (42° 00.00' N. lat.) and along the California coast is 6,240 lb (2.8 mt).

(i) The fishing season will be open May 1 through July 31, 7 days a week and September 1 through October 31, 7 days per week.

(ii) The daily bag limit is one halibut of any size per day per person.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Convention and Halibut Act. This proposed rule is consistent with the Secretary of Commerce's authority under the Halibut Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan and the annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see ADDRESSES). NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The IRFA is available from NMFS (see ADDRESSES). A summary of the IRFA follows:

These regulations directly affect fin-fish harvesting and charterboat businesses. A fin-fish harvesting business is considered a “small” business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$19.0 million. A charterboat business is considered small if it has annual receipts not in excess of \$7.0 million.

In 2013 (the most recent data available), 608 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery in Area 2A (149 licenses in 2013); incidental halibut caught in the salmon troll fishery (332 licenses in 2013); and the charterboat fleet (127 licenses in 2013). No vessel may participate in more than one of these three fisheries per year. A similar situation may occur for charterboat vessels. The number of charterboats in Northern California, Oregon, and Washington that were involved in groundfish trips including halibut during 2010 was 161 (FEIS Table 3-31). Of the 161 charterboat vessels, 89 vessels fished in either the Columbia River or Central Oregon fisheries. This suggests that 60 percent of the IPHC charterboat license holders may be affected by these regulations.

The IRFA analyzed the impacts of changes to the Plan and regulations. The following changes are proposed in this rule. For 2014, the Council has recommended and NMFS proposes to approve and implement several changes to the recreational fishery in the South of Humbug Mountain subarea in order to address a pattern of quota exceedances in this subarea. These changes include splitting the existing subarea into two state-specific subareas: a Southern Oregon subarea and a California subarea. This change will allow each state to use the most effective available management tools to keep the catch within their respective quotas. The existing Oregon/California sport fishery allocation of 31.7 percent of the non-tribal allocation would be split into a 1 percent California sport fishery allocation and a 30.7 percent Oregon sport fishery allocation. The new California subarea would be open to fishing from May-July and September-October. The month of August would be closed as a quota management measure. The Southern Oregon subarea would be managed in season to avoid exceeding the quota, as the State of Oregon has the capacity to monitor and respond to catch information during the season. Most of these changes did not generate controversy at the relevant Council meetings. Some members of the public testified against the August closure in the California subarea on the basis that this would reduce income in the affected ports. However, the Council determined based on analysis presented at the September meeting that this was the best available measure for avoiding a quota exceedance in 2014. These changes are not expected to result in more than very minor environmental impacts, as they should reduce the catch in the area south of Humbug Mountain compared to the last several years.

In addition, the Council recommended and NMFS is proposing to adopt the following minor adjustments to the Catch Sharing Plan: 1) change the deadline for applying for IPHC licenses for incidental halibut retention in the salmon troll and sablefish fisheries to

accommodate earlier start dates for such retention, 2) eliminate the nearshore fishery in the Washington North Coast subarea, as the quota in this subarea is generally used entirely by the all depth fishery, 3) modify the season dates and create a nearshore fishery in the Columbia River subarea to create additional opportunity in this underutilized area, and 4) modify the public input provisions for the Oregon central coast subarea to allow the State to use methods other than workshops to obtain public input. None of these changes are controversial and none are expected to result in more than very minor environmental or economic impacts. These actions are intended to enhance the conservation of Pacific halibut, to provide angler opportunity where available, and to protect overfished groundfish species from incidental catch in the halibut fisheries.

The TAC is being reduced by 3% from 990,000 lbs (2013) to 960,000 lbs (2014). Within this 3% decline, different subgroups are being affected differently because of the CSP allocation formula. While the overall tribal allocation decline is by 3%, the tribal ceremonial and subsistence allocation declines by 11% and the tribal commercial allocation by 2%. The non-tribal allocation also declines by 3%, but the commercial allocation declines by 3% compared to a recreational allocation decline of 1%. The commercial allocation decrease includes decreases in directed commercial (3%) and incidental salmon troll (3%). There is also a decrease in the incidental sablefish (-49%) allocation which does not come from the commercial allocation but comes from the portion of the Washington sport allocation that is above 214,110 lbs. According to Pacific Marine Fisheries Commission PacFIN data, commercial vessels including tribal vessels landed halibut with a value of \$7.1 million. Preliminary 2013 data, essentially complete through November, shows commercial landings, worth \$5.9 million.

The total commercial allocation (tribal and non-tribal) for 2014 is 505,308 lb -- a 6% decrease from the total 2013 commercial allocation of 539,700 lbs. A 6% allocation decline leads to a projected 6% decline in revenues of just under \$500,000.

The total recreational allocation for 2014 is 412,000 lb -- a 1% decrease from the total 2013 recreational allocation of 418,000 lbs. A decrease in 6,000 lbs may lead to a decrease in about 100 recreational trips. If 80 of these trips are from private boats and 20% from charter boats, the expenditures associated with these trips are about \$17,000. Therefore based on changes in allocations, the economic effect of 2014 allocations compared to the 2013 allocations is under \$600,000 in exvessel revenues and recreational expenditures.

The South of Humbug (SOH) Allocation (southern Oregon-northern California) has averaged 6,000 lbs over the period 2008-2012. However recreational catches in this area have greatly exceeded the allocations, average 25,000 lbs during the period. To address this overage, the SOH allocation is now formally split between the two states (Oregon-2,339 lbs and California-6,240 lbs) and management measures to close the California fishery in August (the fishing season will be open May 1 through July 31, 7 days a week, and September 1 through October 31, 7 days per week. The daily bag limit is one halibut of any size per day per person. This closure is to help reduce the California recreational catch by 40 to 60%. This decrease translates into \$30,000 to \$50,000 in lost recreational trip expenditures.

However, these estimates of lost expenditures do not show the overall effects on communities. In summary the public comments received by the Council at its November meeting were in support of the separation of the southern Oregon area from California and closing the month of August. Further, the comments described the impact a block closure will have on those ports that rely heavily on tourism and have launch facilities. The comments stated

that while a one month closure may be the preferred position by the CDFW and the Council, this option will be devastating to some of the small ports in northern California. In making its decision, the California Department of Fish and Wildlife (CDFW) provided this analysis: There was a wide range in public comments received at the CDFW sponsored meeting concerning which, if any, of the proposed management measures to reduce catches should be adopted for 2014. This lack of consensus was likely a result of the apparently disproportionate impacts the various measures would have on particular ports or fishery sectors. Some commenters supporting closing the month of August because this alternative maximizes time on the water, while also providing for some opportunity during the critical summer months.

While there is evidence that the proposed changes will reduce income in the affected ports, NMFS proposes to implement the changes based on analysis presented at the September 2013 Council meeting. This was the best available measure for reducing the magnitude of catch over and above the quota in 2014. The reduction in income is necessary to bring the fishery closer to the quota which has been exceeded every year since 2008. In 2013, the quota for the South of Humbug area was 6,063 lbs and the projected catch was 50,229 lbs. These changes are expected to result in minimal environmental impacts, and should reduce the catch in the area south of Humbug Mountain compared to the last several years.

The major effect of halibut management on small entities will be from the internationally set TAC decisions made by IPHC. Based on the recommendations of the states, the Council and NMFS are proposing minor changes to the Plan to provide increased recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. Based on the economic

dimensions of the fishery, these minor proposed changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities. In terms of ex-vessel revenues and recreational expenditures, decreased TAC and associated management measures lead to declines of under \$700,000.

The proposed changes to the Plan are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 - 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. The proposed sport and commercial management measures implement the Plan by managing the fisheries to meet the differing fishery needs of the various areas along the coast according to the Plans objectives. The proposed changes to the Plan and domestic management measures do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations.

Because the goal of the proposed action is to maximize angler participation, and thus to maximize the economic benefits of the fishery, NMFS did not analyze alternatives other than the proposed changes and the status quo for purposes of the IRFA. Status quo would be the 2013 Plan applied to the 2014 TAC. Effects of the status quo and the proposed changes are similar because the changes to the Plan for 2014 are not substantially different from the 2013 Plan. The proposed changes to the Plan are not expected to have a significant impact on a substantial number of small entities. Nonetheless, NMFS has prepared this IRFA. Through the rulemaking process associated with this action, we are requesting comments on this conclusion.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the

Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

In 2011, NMFS initiated consultation on the halibut fishery under Section 7 of the ESA because of the listing of yelloweye, canary, and bocaccio rockfish of the Puget Sound/Georgia Basin. This consultation covers the 2014 and 2015 Catch Sharing Plans and implementing regulations for Area 2A. In addition to the listed rockfish species NMFS is also consulting on the effects of the fishery on green sturgeon, marine mammals, eulachon and salmon. At this time the consultation is not completed. It is anticipated that the consultation will be completed before

the final rule is issued. Preliminary analysis indicates that the effects of the fishery on marine mammals, eulachon, green sturgeon, and salmon are minor. Further analysis is needed to determine the effects of the fishery on listed Puget Sound rockfish.

Authority: 16 U.S.C. 1801 et seq.

Dated: February 3, 2014

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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